

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

STATE OF MISSOURI,	)	ED96196
	)	
Plaintiff/Respondent,	)	Appeal from the Circuit Court
	)	of Jefferson County
v.	)	
	)	
ANDREW L. WALTERS,	)	Honorable M. Edward Williams
	)	
Defendant/Appellant.	)	Filed: February 21, 2012

Andrew L. Walters (Appellant) appeals from the trial court's judgment entered upon a jury verdict finding him guilty of one count of first-degree statutory rape; three counts of first-degree statutory sodomy; one count of first-degree child molestation; one count of second-degree statutory rape; two counts of second-degree statutory sodomy; and one count of second-degree child molestation.

REVERSED and REMANDED IN PART and AFFIRMED IN PART.

Division Three Holds: The State correctly concedes that Count VII, as charged in the Information, alleging second-degree statutory sodomy, and Count X, as charged in the Information, alleging second-degree child molestation, are not supported by sufficient evidence from which a reasonable juror might have found Appellant guilty of those counts as charged in the Information beyond a reasonable doubt. The prosecutor's statements in closing arguments regarding Victim's testimony as evidence did not amount to commentary on Appellant's failure to testify or constitute plain error.

Opinion by: Sherri B. Sullivan, J. Robert G. Dowd, Jr., P.J. and Mary K. Hoff, J., concur.

Attorney for Appellant:	Kent Denzel
Attorney for Respondent:	Shaun J. Mackelprang and Jayne T. Woods